

**IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH**

**C.R. No. 4130-2017  
Date of decision : 10.08.2017**

Narender Singh ...Petitioner

versus

Kanwar Singh and others ...Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI**

Present: Ms. Nupur Choudhary, Advocate for the petitioner.

Mr. Naresh Kumar, Advocate for respondent No. 1

Ms. Chhavi Sharma for Mr. P.S. Chauhan, Advocate  
for respondent No. 4

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**RITU BAHRI, J.**

Present petition has been filed under Article 227 of the Constitution of India for setting aside of impugned order dated 15.05.2017 (Annexure P-13), passed by the learned Civil Judge (Junior Division), Panipat, whereby the application under Order 39 Rules 1&2, filed by the respondent No.1-plaintiff, for installation of Automatic inlet-outlet valve at point 'X' has been allowed and order dated 22.05.2017 (Annexure P-16), passed by the learned Additional District & Sessions Judge, Panipat whereby interim injunction prayed for under Order 39 Rule 1 & 2 has been dismissed.

Plaintiff-respondent No.1 was owner in possession of the agricultural land, which is adjoining to railway line. On the other side of the railway line, there is a land of Panipat Thermal Power Plant. A drain has been made by the Panipat Thermal Power Plant in its land adjoining to railway line for passing the waste water of the plant. The waste water is passing through its drain and due to leakage the same is destroying the crops of the plaintiff. Thus, an application was made by

the plaintiff for restraining the defendants to stop water running the waste water towards his fields.

On notice, reply was filed by defendant Nos.1 to 3 i.e Panipat Thermal Power Plant that the waste water of the Panipat Thermal Power Plant passes through Pakka drain well constructed with boundary wall and supply level of drain was very much below then the level of plaintiff's land.

At the same time, petitioner-defendant No.4 has filed his reply and taking the plea that there was a big pond in between the village Assam Kalan and Assan Khurd. The rainy and other waste water of both the villages used to pass through Untla Drain from the time memorial.

Consequently, the application under Order 39 Rules 1 & 2 read with Section 151 CPC, has been allowed, vide order dated 15.05.2017, passed by the learned Civil Judge (Jr. Division), Panipat, by giving a direction to defendant Nos.1 to 3 to install an Automatic inlet-outlet valve at point 'X' of such kind of that rainy water and waste water may passes through the wall in question and enter into the drain and the drain water may not come outside the drain.

The above-said order was affirmed by the learned Additional Sessions Judge, vide order dated 22.05.2017.

Vide order dated 18.07.2017, a direction was issued by this Court to the Deputy Commissioner, Panipat, to send a team from the Irrigation Department, Haryana and Revenue Department, to make a report on the conditions obtaining at site and what remedial measures are required so that the fields of the petitioner are not inundated.

In compliance of above-said order, a report has been placed on record by the Deputy Commissioner, Panipat to the effect that on the date of inspection i.e. 28.07.2017, there was no inundation or flood like situation in the area and even the paddy crops was drying up due to shortage of water. It appears that land in

question is far away from the canal outlet and due to installation of Non Return Valve (NRV) by the thermal authorities on the outfall of water course in Untla Drain the area was facing acute shortage of water. There was free flow of water in both direction i.e. water course to drain in rainy season and drain to water course in lean period. Due to free flow of water in any direction, no damage/losses was occurred to any one i.e. petitioner, defendant and Thermal Power Station, Railway and Irrigation Department etc. After installation of valve, no doubt the water flow was closed from the Untla Drain to this water course/drain but the farmers are still using this water course for lift irrigation by taking drain water from other sides and the purpose of installation of NRV valve is forfeited. This report has been accepted by the Thermal Power Station and they have no objection to this report.

After hearing the learned counsel for the parties, going through the report given by the Deputy Commissioner, Panipat, there is no prima facie case made out in favour of the plaintiff-respondent No.1, as the officers of the Revenue Department, Irrigation Department and Thermal Power Station has accepted this report and have agreed to remove the NRV valve from the site.

Keeping in view the above-said report, the impugned orders (Annexures P-13 & P-16) are hereby set aside. The present revision petition filed by the petitioner is hereby accepted and a direction is issued to respondent Nos.2 to 4 to remove the NRV Valve from the site in question.

**10.08.2017**  
Naresh. K

**(RITU BAHRI)**  
**JUDGE**